

### REMARKS

Claims 1-4 and 6-31 are pending; new claims 30 and 31 are added. The allowance of claims 4 and 6-23 is noted with appreciation.

The provisional obviousness-type double patenting rejection will be addressed should claims in this application be allowed.

Claims 1-3 and 24-29 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,206,694 to Moskowitz et al. It is respectfully submitted that claims 1-3 and 24-29 are not anticipated by Moskowitz.

With respect to claim 1, and claims 2, 3, 23-25, and 29 dependent therefrom, Moskowitz does not disclose a cartridge having an aperture in a beverage flow path linking an inlet to an outlet, where the aperture is bounded on one side by the inner member and bounded on another side by the outer member, as presently recited in claim 1. As best understood, the Office action is asserting that there are openings or slots formed between elements 66 of Moskowitz. However, such openings are not bounded on one side by the arms 64 (asserted in the Office action to correspond to the claimed inner member) and bounded on another side by the cup-shaped container 24 (asserted in the Office action to correspond to the claimed outer member).

With specific respect to claim 24, Moskowitz does not disclose a filter fixed in the beverage flow path and supported by the inner member fixedly attached to the outer member. Also, Moskowitz does not disclose an inner member fixed to the outer member, as recited in claim 29. The arms 64 of Moskowitz are neither fixedly attached or fixed to the cup-shaped container 24. Instead, the arms 64 are moveable inwardly and outwardly relative to the cup-shaped container 24.

With specific respect to claim 25, the limitation "non-removable" has been replaced with the term "fixed." It is submitted that the term "fixed" is a positive structural limitation. Such a lid is not disclosed in Moskowitz.

Moskowitz does not disclose "a flexible laminate, pierceable lid," as presently recited in claim 26 (and by dependency in claim 27). It is submitted that "flexible laminate" is structurally limiting. Such a lid is not disclosed in Moskowitz.

Application No. 10/763,914  
Amendment dated Feb. 12, 2008  
Reply to the Office action of Oct. 12, 2007

Moskowitz does not disclose the aperture recited in claim 28, as well as at least one air inlet disposed downstream of the aperture and upstream of the outlet.

New claims 30 and 31 are submitted to be patentable. The recited structure of the aperture is not disclosed in Moskowitz.

For the foregoing reasons, it is submitted that claims 1-3 and 24-31 are in condition for allowance, and reconsideration and allowance of claims of claims 1-3 and 24-29 are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: February 12, 2008

/Jon A. Birmingham/  
Jon A. Birmingham  
Registration No. 51,222

FITCH, EVEN, TABIN & FLANNERY  
120 S. LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone: 312.577.7000  
Facsimile: 312.577.7007

502526